

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.56 OF 2004

The State of Maharashtra ...Appellant
Vs.
Suresh Jayram Divekar & Ors. ...Respondents

Shri A.S. Shitole, A.P.P. for the Appellant.
Shri S.S. Kulkarni for the Respondents.

CORAM : R.S.MOHITE, J.

DATE : JANUARY 16, 2006.

P.C.:

1. This is an Appeal by the State impugning the judgment and order passed by the Ist Adhoc Additional Sessions Judge, Baramati on 03.07.2002, acquitting the accused of the offence punishable under section 306 read with section 34 of the Indian Penal Code also acquitting the accused Nos.2,3, 5 and 6 for offences punishable under section 504 and 506 read with section 34 of the Indian Penal Code. On perusal of the impugned judgment and order it is found that the acquittal is for cogent and acceptable reasons. The prosecution case was that accused No.2 was the real brother of deceased Bapu and the remaining accused were family members. There was a quarrel between the accused and Bapurao before one and half months on account of destruction of 'bund'. The family members of the accused used to harass the family members of

Bapurao by abusing, threatening, knocking on the door and pelting stones at the night time. The accused used to threaten Bapurao to kill him and his family members. In my view, the behaviour of the accused cannot be said to amount to abetment of offence. The accused who have been actually giving threat have been convicted. Consequently, leave refused and Appeal is dismissed.

JUDGE